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THE MASSACHUSETTS INHERITANCE TAX OF 1907.

Massachusetts, by the Act of June 21, 1907, has become one of the States now imposing direct taxes on inheritances. The pressure for legislation of this sort has for several years been strong in the State. The Tax Commission of 1897 recommended it, and presented a carefully framed bill. In the recommendations of that Commission the introduction of the inheritance tax was to be part of a comprehensive reform of the entire tax system of the State. Such a comprehensive reform, however, is extremely difficult to bring about in any American State. Improvement in tax methods takes place step by step, not by radical changes. Endeavors to enact an inheritance tax have been made at almost every session of the legislature since 1897, and bills have passed one house or the other, usually blocked at the end on the ground that this piece of legislation should not stand alone. The pressure, however, in favor of it became too strong for resistance, and has resulted in the statute of 1907.

The act virtually divides those inheriting property into three classes: class A (so designated in the act) consisting of very near relatives; class B (also designated in the act), remoter relatives; and, finally, a third class (not given any name in the act) including all others.

Class A includes husband, wife, lineal ancestor, lineal descendant, adopted child, the lineal descendant of any adopted child, the wife or widow of a son, and the husband of a daughter, of a decedent. Property passing to a member of class A is subject to a tax of

1 per cent. if its value does not exceed \$50,000.

1½ per cent. if its value is between \$50,000 and \$100,000.

2 per cent. if its value exceeds \$100,000.

Class B includes brother, sister, nephew, and niece. The tax rate on property passing to a member of class B is:—

3 per cent. if its value does not exceed \$25,000.

4 per cent. if its value is between \$25,000 and \$100,000.

5 per cent. if its value exceeds \$100,000.

The third class includes all others. In it there is a uniform tax of 5 per cent.

One important difference is to be noted between classes A and B and the third (drag-net) class. With respect to the first two, the tax is levied not upon the total property bequeathed, but upon the property going "to or for the use of a member" of the class; that is, it is levied not upon the property as a whole, but upon the distributive share, and the tax rate accordingly is determined by the amount of the distributive share. In the drag-net clause, however, this is not the case. There the tax is levied at the uniform rate, irrespective of the amount of any distributive share.

There are certain exemptions. All property passing to charitable, educational, or religious institutions, whose property is by law exempt from taxation, is not subject to the new tax; neither is property going to a city or town for public purposes. Further, a distributive share passing to a husband, wife, father, mother, child, or adopted child (observe that this is not precisely the same as class A), is not subject to the tax unless its value exceeds \$10,000. Similarly, no other distributive share is subject to tax unless its value exceeds \$1,000.

The tax is applicable to all property "within jurisdiction of the Commonwealth, corporeal or incorporeal." It is thus levied with respect to real property as well as with respect to personal property. Moreover, corporate shares in corporations chartered by the State or in national banks within its limits are within its scope. The holdings by non-resident owners of such securities are hence subject to it. The collection of taxes on such securities, even in the case of non-residents, is assured by a provision making the corporation or bank liable for the tax in case of share transfers by foreign executors, unless it appear that the tax has been duly paid.

So far the act sweeps into its net everything which the

State can seize upon, therein following a common practise in recent American statutes of the sort. In other respects, however, the Massachusetts Act is more moderate. As to shares in railway, street railway, telegraph or telephone companies, incorporated in the State and also in some other State, it is provided that "so much only of each share as is proportional to the part of such company's line lying within this Commonwealth shall be considered as . . . within the jurisdiction of the Commonwealth for the purposes of this act." The property of a resident of Massachusetts which is not in the State at the time of his death is not taxable if subject to a like tax in another State or country; or, if subject to an inheritance tax of less amount, it is taxable only for the difference. Finally, there is a reciprocity provision as to non-residents holding Massachusetts property. "Property of a non-resident decedent which is within the jurisdiction of the Commonwealth at the time of his death" is not taxable, if subject to a like tax in the State or country of his residence, or is taxable only for the excess of the Massachusetts rate. But this alleviation is permitted only if a like exemption is made by the laws of the other State in favor of citizens of Massachusetts. This offer of reciprocity is significant and commendable. The practise in many States of levying inheritance taxes with respect to shares in all corporations within the jurisdiction of the State is leading to an accumulation of levies, which the Massachusetts statute wisely endeavors to prevent.

Some further provisions may be noted. The tax is chargeable to the executor, administrator, or trustee. Every such person is required to file within three months an inventory of the estate under penalty of \$1,000. He is in any case individually liable for the whole amount of the tax. The tax is levied on the actual value of the estate or distributive share at the time of death or at the time when the beneficiary becomes entitled to the property. Provision is made for an equitable valuation of future interests and of life interests. In the administration of the tax the probate courts are given no small competence, their supervision of

executors and trustees rendering them effective parts of the machinery. Gifts "made or intended to take effect in possession or enjoyment after the death of the grantor" are also subject to the tax; but it would seem that gifts *inter vivos* are not otherwise affected. The old collateral inheritance tax of 5 per cent. is repealed. The new act took effect on the 1st of September of the current year.

F. W. T.